

2002P11414US01
60,427-609REMARKS

Applicant thanks the Examiner for the remarks and analysis contained in the Office Action. Applicant has amended claims 1, 9, 10, 11, 18 and 19 above. New claims 21 and 22 are added. Applicant respectfully requests reconsideration of this application.

Applicant respectfully submits that the claims are consistent with the requirements of 35 U.S.C. §112. The Examiner had rejected claims 9, 10, 18 and 19 as being allegedly "confusing." Applicant respectfully submits that the clarification of those claims renders it clear how the estimated noise source sounds are used as the selected at least one noise source sound for a calibration reference.

Applicant respectfully submits that the clarification to claims 1 and 11 regarding the calibration clarifies how the calibration reference of Applicant's claims is used and clarifies the difference between that and a noise sound that is cancelled out during noise cancellation.

Applicant respectfully traverses the rejections under 35 U.S.C. §102 and §103 based upon the *Culman, et al.* reference. There is nothing in the *Culman, et al.* reference that corresponds to the calibration reference of Applicant's claims. Instead, the *Culman, et al.* reference merely discloses pre-storing noise sounds and using them as if they were a detected noise sound for generating a noise cancellation signal. That is not the same thing as a calibration reference as used in Applicant's claimed invention. Therefore, there is no anticipation and none of the claims can be considered obvious in view of the *Culman, et al.* reference.

Applicant respectfully traverses the rejections under 35 U.S.C. §102 and §103 based upon the *Eichler, et al.* reference. The "pre-calibrations" of the *Eichler, et al.* arrangement in paragraph 57 does not have anything to do with the type of calibration recited in Applicant's claims. Instead, the *Eichler, et al.* arrangement is attempting to determine the difference in

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sounds heard between transducers 102 and 104 for purposes of using the SPL of that reference. As that is not the same thing as what Applicant is claiming, there is no anticipation. Additionally, there is no basis for modifying the teachings of the *Eichler, et al.* reference in any way to make it consistent with Applicant's claims. None of Applicant's claims can be considered obvious.

Applicant respectfully submits that this case is in condition for allowance.

Applicant hereby petitions to extend the time for filing a response to the Office Action mailed August 24, 2006 for one month, the period to end on December 24, 2006.

Applicant believes that additional fees in the amount of \$220.00 are required for a one month extension of time and two claims in excess of twenty. The Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds in the amount of \$220.00. The Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Respectfully submitted,

CARLSON, GASKEY & OLDS

By: 

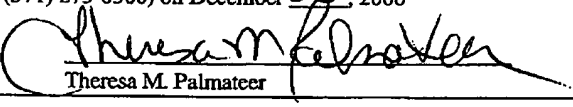
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Dated: December 20, 2006

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CERTIFICATE OF FACSIMILE

I hereby certify that this Response, relative to Application Serial No. 10/6006,981 is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on December 20, 2006


Theresa M. Palmateer